

## LCB File No. R120-08

### PROPOSED REGULATION OF THE STATE EMERGENCY RESPONSE COMMISSION

#### Recommended NAC changes.

NAC 459.99135(2). Use the fees collected pursuant to subsection 4 of [NRS 482.379365](#) and deposited in the Contingency Account for Hazardous Materials to issue grants to local emergency planning committees for the ~~operating~~ *supplies*, planning, training and equipment needs of the local emergency planning committees to ~~carry out the emergency plans of the local emergency planning committees~~ *support preparedness to combat terrorism*; and

NAC 459.99136 **Requests for funding: Determination and approval of amount; scope.** ([NRS 459.735](#), [459.740](#))

1. ~~Before a~~ A local emergency planning committee may submit an application for a grant pursuant to the provisions of [NAC 459.99138](#) to [459.99146](#), inclusive~~;~~ *.Before funding of the grant by the Commission*, the local emergency planning committee must meet to ~~determine and~~ approve, *or ratify a prior action, the amount of funding it will request in the application* based upon the needs of its emergency planning district~~;~~ *. [the amount of funding it will request in the application.]*

NAC 459.99138 **Provision of money from proceeds of certain fees to pay for operating costs.** ([NRS 459.735](#), [459.740](#)) If a local emergency planning committee is in compliance with all applicable provisions of the Nevada Revised Statutes and the Nevada Administrative Code relating to local emergency planning committees and the official policies of the Commission, the Commission may provide a portion of the money from fees collected by the Commission pursuant to ~~subsection 4 of NRS 482.379365 and~~ [NAC 459.9918](#) to [459.991825](#), inclusive, to the local emergency planning committee for reasonable and appropriate operating costs of the local emergency planning committee, as determined by the Commission, including, without limitation, office supplies, overhead expenses and costs related to meetings of the local emergency planning committee.

NAC 459.99139 **Requests for money from proceeds of certain fees to pay for planning.** ([NRS 459.735](#), [459.740](#)) A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to ~~subsection 4 of NRS 482.379365 and~~ [NAC 459.9918](#) to [459.991825](#), inclusive, for planning that is necessary to carry out the emergency plan of the local emergency planning committee *and/or pursuant to subsection 4 of NRS 482.379365 for planning to support preparedness to combat terrorism.*

NAC 459.99141 **Requests for money from proceeds of certain fees to pay for training.** ([NRS 459.735](#), [459.740](#))

1. Except as otherwise provided in subsection 2, a local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected

by the Commission pursuant to ~~[subsection 4 of NRS 482.379365 and]~~ [NAC 459.9918](#) to [459.991825](#), inclusive, for training that is necessary to carry out the emergency plan of the local emergency planning committee *and/or pursuant to subsection 4 of NRS 482.379365 for planning to support preparedness to combat terrorism*.

2. A local emergency planning committee may not request grant money from the Commission pursuant to subsection 1 to pay for training unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training. *A local emergency planning committee may not request grant money pursuant to subsection 4 of NRS 482.379365 to pay for training to support preparedness to combat terrorism unless the local emergency planning committee previously submitted a request to the Division of Emergency Management to participate in a training program provided by the Division of Emergency Management and the Division of Emergency Management declined to provide such training. A request for grant money to attend a training conference does not need to be submitted to the State Fire Marshal or the Division of Emergency Management.*

**NAC 459.99142 Requests for money from proceeds of certain fees to pay for services of consultant or contractor.** ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission for planning or training, request grant money from the fees collected by the Commission pursuant to ~~[subsection 4 of NRS 482.379365 and]~~ [NAC 459.9918](#) to [459.991825](#), inclusive, for services to be provided by a consultant or contractor which relate to planning or training to carry out the emergency plan of the local emergency planning committee *and/or pursuant to subsection 4 of NRS 482.379365 for planning to support preparedness to combat terrorism*.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) *At least two competitive bids;*

(b) ~~[The]~~ *An itemized* scope of the services to be provided by the consultant or contractor; and

(b) *An itemized* quote for the costs of the services to be provided by the consultant or contractor. ~~[, which must not exceed \$450 per day.]~~

**NAC 459.99143 Requests for money from proceeds of certain fees to pay for equipment.** ([NRS 459.735](#), [459.740](#))

1. A local emergency planning committee may, in its application for a grant from the Commission, request grant money from the fees collected by the Commission pursuant to ~~[subsection 4 of NRS 482.379365 and]~~ [NAC 459.9918](#) to [459.991825](#), inclusive, for equipment that is necessary to carry out the emergency plan of the local emergency planning committee *and/or pursuant to subsection 4 of NRS 482.379365 for planning to support preparedness to combat terrorism*.

2. Except as otherwise provided in this subsection, the request for equipment must be for equipment designated on the list of appropriate equipment for matters relating to emergency response of hazardous materials *and/or to support preparedness to combat terrorism* that is provided by the Commission. The local emergency planning committee may include a request

for equipment not designated on the list provided by the Commission if the local emergency planning committee includes a quote for the cost of the equipment in the application.

**NAC 459.99145 Requests for money from federal funding to pay for training. ([NRS 459.735](#), [459.740](#))**

2. A local emergency planning committee may not request grant money from the Commission pursuant to subsection 1 to pay for training unless the local emergency planning committee previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training. *Request for grant money to attend a training conference does not need to be submitted to the State Fire Marshal.*

**NAC 459.99146 Requests for money from federal funding to pay for services of consultant or contractor. ([NRS 459.735](#), [459.740](#))**

2. A request made pursuant to subsection 1 must include, without limitation:

(a) ~~[(a)]~~ *At least two competitive bids;*

(b) ~~[(The)]~~ *An itemized* scope of the services to be provided by the consultant or contractor; and

~~[(b)]~~(c) *An itemized* quote for the costs of the services of the consultant or contractor ~~[, which must not exceed \$450 per day].~~

**NAC 459.99156 Authorization and procedure to revise use of money after award of grant. ([NRS 459.735](#), [459.740](#))**

1. If circumstances pertaining to the use of grant money change after the award of a grant to a local emergency planning committee, the local emergency planning committee ~~may~~ *must or shall* submit to the Commission a request, on a form approved by the Commission, to revise the use of the grant money for another purpose.

3. The Chairman of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a ~~hearing~~ *meeting* to review the request. The local emergency planning committee will be notified of any action taken concerning the request within 5 working days after the action is taken.

~~4. A local emergency planning committee may appeal any action taken pursuant to this section to the Commission. If a local emergency planning committee appeals an action pursuant to this subsection, the local emergency planning committee may carry out a change described in subsection 2 upon approval by the Commission on the record at a meeting of the Commission]~~

**Funding for State Agencies**

**NAC 459.99161 Authority of Commission: Allocation of money from Contingency Account for Hazardous Materials. ([NRS 459.735](#), [459.740](#))** Pursuant to paragraph (d) of subsection 2 of [NRS 459.735](#) and in accordance with the provisions set forth in [NAC 459.99163](#) to [459.99167](#), inclusive, the Commission may:

2. Allocate the fees collected pursuant to subsection 4 of [NRS 482.379365](#) and deposited in the Contingency Account for Hazardous Materials to state agencies for the ~~operating~~ *supplies*,

planning, training and equipment needs of state and local personnel to ~~respond to accidents and incidents involving hazardous materials~~ *support preparedness to combat terrorism*; and

**NAC 459.99163 Requests for money from proceeds of certain fees to pay for training.**  
(NRS 459.735, 459.740)

1. Except as otherwise provided in subsection 2, a state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to ~~subsection 4 of NRS 482.379365 and~~ [NAC 459.9918](#) to [459.991825](#), inclusive, for training state and local personnel to respond to accidents and incidents involving hazardous materials *and/or pursuant to subsection 4 of NRS 482.379365 for planning to support preparedness to combat terrorism*.

2. A state agency may not request money from the Commission pursuant to subsection 1 to pay for training unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training. *A state agency may not request grant money pursuant to subsection 4 of NRS 482.379365 to pay for training to support preparedness to combat terrorism unless the state agency previously submitted a request to the Division of Emergency Management to participate in a training program provided by the Division of Emergency Management and the Division of Emergency Management declined to provide such training. A request for grant money to attend a training conference does not need to be submitted to the State Fire Marshal or the Division of Emergency Management.*

**NAC 459.99164 Requests for money from proceeds of certain fees to pay for services of consultant or contractor.** (NRS 459.735, 459.740)

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to ~~subsection 4 of NRS 482.379365 and~~ [NAC 459.9918](#) to [459.991825](#), inclusive, for services to be provided by a consultant or contractor which relate to the *planning or* training of state and local personnel to respond to accidents and incidents involving hazardous materials *and/or subsection 4 of NRS 482.379365 to support preparedness to combat terrorism*.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) ~~At least two competitive bids~~;

(b) ~~The~~ *An itemized* scope of the services to be provided by the consultant or contractor; and

~~(c)~~ *An itemized* quote for the costs of the services to be provided by the consultant or contractor ~~which must not exceed \$450 per day~~.

**NAC 459.99165 Requests for money from proceeds of certain fees to pay for equipment.**  
(NRS 459.735, 459.740)

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request money from the fees collected by the Commission pursuant to ~~subsection 4 of NRS 482.379365 and~~ [NAC 459.9918](#) to [459.991825](#), inclusive, for equipping state and local personnel to respond to accidents and incidents involving hazardous materials *and/or pursuant to subsection 4 of NRS 482.379365 for planning to support preparedness to combat terrorism*.

**NAC 459.99166 Requests for money from federal funding to pay for training. (NRS 459.735, 459.740)**

2. A state agency may not request money from the Commission pursuant to subsection 1 to pay for training unless the state agency previously submitted a request to the State Fire Marshal to participate in a training program provided by the State Fire Marshal pursuant to [NRS 477.039](#) and the State Fire Marshal declined to provide such training. *Requests for grant money to attend a training conference does not need to be submitted to the State Fire Marshal.*

**NAC 459.99167 Requests for money from federal funding to pay for services of consultant or contractor. (NRS 459.735, 459.740)**

1. A state agency may, in its application for an allocation of money from the Commission submitted pursuant to [NAC 459.99162](#), request an allocation from the money awarded to the Commission by the Federal Government pursuant to 42 U.S.C. § 11005 for services to be provided by a consultant or contractor which relate to *planning or* training state and local personnel to respond to accidents and incidents involving hazardous materials.

2. A request made pursuant to subsection 1 must include, without limitation:

(a) ~~[(a)]~~ *At least two competitive bids;*

(b) ~~[(The)]~~ *An itemized* scope of the services to be provided by the consultant or contractor; and

~~[(b)]~~ (c) *An itemized* quote for the costs of the services to be provided by the consultant or contractor ~~[-, which must not exceed \$450 per day].~~

**NAC 459.99171 Completion and submission of certain forms. (NRS 459.735, 459.740)**  
Before any money may be distributed by the Commission to a state agency for training and equipping state and local personnel to respond to accidents and incidents involving hazardous materials *or to support preparedness to combat terrorism*, the state agency must complete and submit to the Commission the following forms provided by the Commission:

~~**[NAC 459.99176 Annual progress reports. (NRS 459.735, 459.740)]**~~

~~—1. On or before July 31 of each year, a state agency which receives an allocation of money from the Commission for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials shall submit an annual progress report to the Commission, on a form approved by the Commission, concerning the money allocated to the state agency.~~

~~—2. An annual progress report submitted pursuant to subsection 1 must include, without limitation:~~

~~—(a) The activities performed during the year relating to the allocation received from the Commission; and~~

~~—(b) Information concerning the progress of the state agency in achieving the goals and objectives outlined in its application for an allocation of money.~~

~~—3. The Commission will review each annual progress report to ensure that the activities of the state agency are in compliance with the goals and objectives outlined in its application for an allocation of money.~~

~~—4. If the state agency fails to submit the annual progress report on or before July 31 of each year, the Commission may withhold funding from the state agency in the future.]~~

**NAC 459.99177 Authorization and procedure to revise use of money after allocation.**  
(NRS 459.735, 459.740)

1. If circumstances pertaining to the use of money change after the Commission approves the allocation of money to a state agency for training or equipping state and local personnel to respond to accidents and incidents involving hazardous materials, the state agency ~~[may]~~ *must or shall* submit to the Commission a request, on a form approved by the Commission, to revise the use of the money for another purpose.

3. The Chairman of the Funding Committee will approve or deny a request described in subsection 2 within 5 working days after receiving the request. If applicable, the Funding Committee will, within 5 working days, schedule a ~~[hearing]~~ *meeting* to review the request. The state agency will be notified of any action taken concerning the request within 5 working days after the action is taken.

~~[— 4. A state agency may appeal any action taken pursuant to this section to the Commission. If the state agency appeals an action pursuant to this subsection, the state agency may carry out a change described in subsection 2 upon approval by the Commission on the record at a meeting of the Commission.]~~

**Appeals**

**NAC 459.99189 Appeal by local emergency planning committee or state agency of ~~[grant-related]~~ decision.** (NRS 459.740)

1. If a local emergency planning committee or a state agency is not satisfied with a ~~[grant-related]~~ decision by the Commission or by a staff member of the Commission, the local emergency planning committee or state agency may file an appeal with the Executive Director of the Commission. The appeal must be filed in writing, including the grounds for the appeal and any supporting documentation, within 35 days after the receipt of notice by the local emergency planning committee or state agency of the original decision.